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 and SIEMENS AKTIENGESELLSCHAFT

**UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA**

NEUROGRAFIX, ET AL.,

Plaintiffs,

vs.

SIEMENS MEDICAL SOLUTIONS USA,  
 INC., ET AL.,

Defendants.

CASE NO. CV 10-1990 MRP(RZX)

**DECLARATION OF SEAN M.  
 MCELLOWNEY IN SUPPORT  
 OF SIEMENS' MOTION FOR  
 PARTIAL SUMMARY  
 JUDGMENT OF INVALIDITY  
 REGARDING CLAIMS 3-5, 36,  
 37, 39-44, 46, 47, 49, 50, 55, 56, 58,  
 59, 61, AND 62 IN U.S. PATENT  
 NO. 5,560,360 IN LIGHT OF  
 CLAIM CONSTRUCTION  
 ORDER**

**The Hon. Mariana R. Pfaelzer  
 United States District Court Judge**

**Hearing date: TBD  
 Time: TBD  
 Location: Courtroom 12**

SIEMENS MEDICAL SOLUTIONS USA,  
INC.,

Counterclaim Plaintiff,

vs.

NEUROGRAFIX, and WASHINGTON  
RESEARCH FOUNDATION,

Counterclaim Defendants.

I, Sean M. McEldowney, hereby declare:

1. I am an attorney at the law firm of Kirkland & Ellis LLP, which represents Siemens Medical Solutions USA, Inc. and Siemens Aktiengesellschaft (collectively “Siemens”) in the above-captioned matter.

2. Attached hereto as Exhibit 1 is a true and correct copy of J.V. Hajnal, et al., *MR Imaging of Anisotropically Restricted Diffusion of Water in the Nervous System: Technical, Anatomic, and Pathologic Considerations*, 15 J. Computer Assisted Tomography 1 (1991); SMSSAG0000208-225.

3. Attached hereto as Exhibit 2 is a true and correct copy of a letter from Andrew D. Weiss to Sean M. McEldowney, dated May 18, 2011.

4. Attached hereto as Exhibit 3 is a true and correct copy of an email from Andrew D. Weiss to Sean M. McEldowney, dated May 24, 2011.

5. Attached hereto as Exhibit 4 is a true and correct copy of U.S. Patent No. 5,560,360; NEURO00007123-173.

6. Attached hereto as Exhibit 5 is a true and correct copy of excerpts of *Taber’s Cyclopedic Medical Dictionary* (1993); SMSSAG0051244-266.

7. Attached hereto as Exhibit 6 is a true and correct copy of excerpts from Plaintiff NeuroGrafix’s Disclosure of Asserted Claims and Infringement Contentions, dated November 10, 2010.

8. Attached hereto as Exhibit 7 is a true and correct copy of excerpts from

the deposition of Aaron G. Filler, M.D., dated February 22, 2011.

9. Attached hereto as Exhibit 8 is a true and correct copy of excerpts from the expert report of Aaron G. Miller, M.D., dated January 24, 2011.

10. Attached hereto as Exhibit 9 is a true and correct copy of a letter from Sean M. McEldowney to Andrew D. Weiss, dated May 12, 2011.

I hereby declare, under penalty of perjury, that the foregoing statements are true and correct to the best of my personal knowledge.

Respectfully submitted,

Dated: July 15, 2011

/s/ Sean M. McEldowney  
Sean M. McEldowney

**CERTIFICATE OF SERVICE**

I hereby certify that on July 15, 2011, a copy of the foregoing DECLARATION OF SEAN M. McELDOWNEY IN SUPPORT OF SIEMENS' MOTION FOR PARTIAL SUMMARY JUDGMENT OF INVALIDITY REGARDING CLAIMS 3-5, 36, 37, 39-44, 46, 47, 49, 50, 55, 56, 58, 59, 61, AND 62 IN U.S. PATENT NO. 5,560,360 IN LIGHT OF CLAIM CONSTRUCTION ORDER was served upon counsel of record for Plaintiffs registered with the Court's CM/ECF system.

/s/Sean M. McEldowney